

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

OTHMAN ARJOUAN,

Plaintiff/Petitioner,

v.

LATIFA BINT-ALL AL-GABRY
CABRÉ,

Defendant/Respondent.

No. 1:17-cv-00782-PJK-JHR

ORDER GRANTING MOTION TO STRIKE and VACATING TRIAL SETTING

THIS MATTER came on for consideration of Petitioner's Expedited Motion to Strike Respondent's Deposition Notice Regarding Linda Brogaard filed April 5, 2018 (ECF No. 81). Upon consideration thereof, the motion is granted, but the court will vacate the April 17 trial date and hold a status conference at a later date so as to resolve any remaining disputes concerning the presentation of evidence at trial.

According to Petitioner, the witness was not identified in Respondent's Rule 26 initial disclosures and she was not listed as a witness in Respondent's witness list. ECF No. 42. Respondent counters that the witness was listed on her combined exhibit and witness list regarding a letter to be introduced. ECF No. 83. On February 1, 2018, the magistrate judge entered a supplemental scheduling order advising the parties to

supplement initial disclosures with a supplemental discovery completion date of March 6.
ECF No. 56.

Respondent filed a motion to have the witness appear telephonically. ECF No. 65. As to the manner of presentation, the court denied the motion in favor of a video deposition that could be replayed at trial. ECF No. 78, at 3. Given the impending trial date, the court resolved this issue without benefit of a response — the court did not, nor could it, resolve any objections to the witness's testimony by Petitioner. It does appear, however, that the dispute concerning the video deposition may be one of scheduling.


Given these circumstances and in an abundance of caution, the court will grant Petitioner's motion, vacate the April 17 trial date, and hold a status conference at a later date so these issues may be resolved. The deposition should not go forward.

NOW, THEREFORE, IT IS ORDERED that:

(1) Petitioner's Expedited Motion to Strike Respondent's Deposition Notice Regarding Linda Brogaard filed April 5, 2018 (ECF No. 81) is granted, and

(2) The April 17 trial date is vacated and will be reset along with status conference at a later date.

DATED this 6th day of April 2018, at Santa Fe, New Mexico.


United States Circuit Judge
Sitting by Designation